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Note verbale dated 14 July 2003 from the Permanent Mission of Turkmenistan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Turkmenistan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report of Turkmenistan prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003 (see annex).

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Annex to the note verbale dated 14 July 2003 from the Permanent Mission of Turkmenistan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report in implementation of Security Council resolution 1455 (2003)

The present report has been prepared in accordance with paragraphs 6 and 12 of Security Council resolution 1455 (2003) for submission to the Committee established pursuant to resolution 1267 (1999).

In order to implement the provisions of Security Council resolution 1455 (2003), Turkmenistan undertook effective and exhaustive measures to coordinate activities among the corresponding competent bodies concerning the questions dealt with in the aforementioned document.

In accordance with the guidance for reports required of all States pursuant to paragraphs 6 and 12 of resolution 1455 (2003), no activities by Usama bin Laden, al-Qa'idah, the Taliban movement or their accomplices have been noted in Turkmenistan. A consolidated list was sent to the corresponding ministries and departments, including the Consular Office of the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Ministry of National Security, the State Border Service, the State Customs Service and the Central Bank of Turkmenistan.

Section on the financial and economic asset freeze

The Act of 8 October 1993 on currency regulation (articles 7, 8, 9 and 16), which determines the legality of banking operations conducted in foreign currency, serves as the legislative basis in Turkmenistan for freezing assets. The Act is a document which establishes general principles for conducting currency operations in the country's domestic economic turnover and international transactions, the authority and functions of State bodies in currency regulation and the administration of currency resources, the rights and obligations of residents and non-residents with regard to the ownership, use and disposal of foreign currency; foreign currency control; and liability for violating currency laws.

In addition, the Instructions to Banks in the Territory of Turkmenistan (hereinafter, the Instructions) adopted by the decision of the President of Turkmenistan of 7 January 2002 on measures to regulate foreign currency operations in Turkmenistan is a very important document that regulates the legality of operations involving foreign currency.

Accordingly, foreign currency operations may not be conducted in Turkmenistan without complying with the requirements of this law and other normative legal acts of Turkmenistan. In this way, Turkmenistan has provided for the possibility of tracing the legality of the origin of assets, thereby preventing the penetration of illegal capital into its territory and illegal operations with foreign currency in its State.

Furthermore, on the basis of a letter from the Central Bank of Turkmenistan, restrictions on releasing cash assets from depositors' accounts if such assets are received in non-cash form from commercial structures have been introduced, and restrictions have been placed on non-cash operations if the funds are received from anonymous accounts on demand, which has limited the uncontrolled movement of funds. In addition, in accordance with the aforementioned Instructions, anonymous accounts of physical persons who are residents or non-residents of Turkmenistan may be opened for a period of not less than six months; anonymous accounts receive foreign currency only in cash, and the balance in the account must not exceed $10,000 (or the equivalent in another currency). In this way, a restriction has been placed on the non-cash transfer of funds to anonymous accounts and the accumulation of large sums of monetary assets in such accounts.

To date, obstacles linked to the legal basis regulating the freezing of accounts have not arisen in Turkmenistan's domestic legislation.

The Instructions provide for the need to present documents confirming the origin of foreign currency in order to transfer funds from and to Turkmenistan. Moreover, foreign currency is transferred from Turkmenistan within the limits of the sums specified in documents confirming the legality of foreign currency formation. In cases involving the transfer of funds in excess of the established amount which is systematic in nature, the authorized bank is obliged to require that the physical person present documents confirming the source of such funds or the valid basis for receiving them. In addition, current account operations are carried out on the basis of the corresponding documents for depositing funds, which makes it possible to trace their movement in the territory of Turkmenistan.

In cases where money transfers in freely convertible currency exceed the sum of $5,000 (or its equivalent in another foreign currency) and/or are systematic in nature, and the overall sum of such transfers over a period of three months amounts to $15,000, the authorized bank is obliged to require from the physical person documents confirming the source of such funds or the valid basis for receiving them.

In accordance with article 40 of the Act on the Central Bank of Turkmenistan of 8 October 1993, the Central Bank bears responsibility for drawing up regulations and provisions concerning foreign currency operations.

With regard to a "comprehensive summary of frozen assets", according to the lists submitted in accordance with resolutions 1267 (1999), 1333 (2001) and 1390 (2002), no accounts of listed individuals were detected on the basis of the information provided by banks in Turkmenistan in response to the official enquiry of the Central Bank.

Banks are informed through the Central Bank of Turkmenistan, which, having received information from competent sources, notifies the country's banks about the need to suspend operations through accounts in accordance with the lists provided.

Within the framework of implementing Security Council resolutions, corresponding measures have been undertaken to prevent and suppress possible cases of the financing of terrorist acts. In compliance with international norms and in order to prevent and suppress the financing of terrorism, banks and other financial institutions in Turkmenistan are provided with information on persons and organizations that are linked with terrorist activities with instructions to freeze the

accounts of persons and organizations in accordance with paragraph 2 (a) of resolution 1390 (2002).

In order to implement measures relating to the competence of the Central Bank of Turkmenistan, provided for under paragraph 8 (c) of Security Council resolution 1333 (2000), paragraph 4 (b) of resolution 1267 (1999) and paragraph 2 (a) of resolution 1390 (2002), a check was carried out of the accounts of the Bank's clients, during which no funds or financial resources were detected, including funds received or derived from property owned or under the direct or indirect control of the Taliban movement or any other enterprise controlled by the Taliban movement, funds or other financial assets of Usama bin Laden and physical or legal persons which, as established by the Counter-Terrorism Committee, or linked with him, including funds and assets of al-Qa`idah, or funds received or derived from property owned or directly or indirectly controlled by Usama bin Laden and his accomplices.

If financial resources or other funds of the aforementioned persons or groups are detected, the Bank will take all the measures provided for under the aforementioned paragraphs of the resolutions in question, such as:

1. The immediate freezing of funds and other financial assets of these persons, groups, enterprises and organizations, including funds received from property owned or directly or indirectly controlled by them or owned or directly or indirectly controlled by persons acting on their behalf or on their orders;

2. Ensuring that neither these nor any other funds or financial assets are used in the interests of these persons by citizens of Turkmenistan or other persons in the territory of Turkmenistan;

3. Immediately transmitting, to the bodies authorized to inform the Counter-Terrorism Committee, the corresponding information such as, for example, the type of assets frozen, account numbers and currency value of such frozen assets.

In order to prevent any physical or legal persons from opening accounts, the State Bank for Foreign Economic Activities of Turkmenistan has established unified requirements for basic documents. In accordance with the Act of 18 June 1996 on the consular institutions of Turkmenistan abroad, work is being conducted in close cooperation with the consular services of Turkmenistan in the area of requiring legalization of documents in the manner established under the law. If one of the requirements is not complied with, the Bank has the right not to allow a client to open an account.

In dealing with a client's account, the Bank monitors the regularity of payment operations, which makes it possible to regulate foreign currency flows.

Under Turkmenistan's normative legal acts concerning the movement across the customs border of jewellery and precious metals, such items are assayed in the State Assay Office of the Central Bank of Turkmenistan, and an excise duty amounting to 15 per cent of the customs value is levied when they are imported into the customs territory of Turkmenistan.

The Committee's consolidated list was incorporated into the financial system by transmitting the list to all of Turkmenistan's banks with the instruction to suspend all operations in the accounts of listed individuals.

Section on the travel ban

In accordance with the resolution under consideration, Turkmenistan took additional measures to enhance the effectiveness of border control and control over the issuance of personal identity documents and transit documents in order to prevent the movement of terrorists or terrorist groups. More careful verification and stricter registration are being carried out at entry points, and lists of persons who are refused a visa and entry into the territory of Turkmenistan are systematically circulated.

In accordance with article 24 of the Act of 8 October 1993 on the legal situation of foreign nationals in Turkmenistan, a foreign national may be denied entry into Turkmenistan by the Ministry of Foreign Affairs or the Ministry of Internal Affairs, and also on submission by the Ministry of National Security and, where necessary, in coordination with other interested bodies of the State administration:

1. In the interest of ensuring national security or protecting public order;

2. If this is necessary in order to protect the rights and legitimate interests of citizens of Turkmenistan and other persons;

3. If, during a previous stay in Turkmenistan, he was found to have violated laws on the legal status of foreign nationals in Turkmenistan or customs and currency laws and also if he engaged in propaganda activities that ran counter to the interests of Turkmenistan;

4. If, when applying for an entry visa, he provided false information about himself or did not provide the necessary documents;

4.1. If the person previously committed a criminal offence in the territory of Turkmenistan;

5. On the basis of other grounds laid down under the legislation of Turkmenistan.

In accordance with article 25 of the aforementioned Act, a foreign national may be denied the right to leave Turkmenistan by the Ministry of Foreign Affairs or the Ministry of Internal Affairs, and also, on submission by the Ministry of National Security and, where necessary, in coordination with other interested bodies of the State administration:

1. If there are grounds for instituting criminal proceedings against him, prior to the end of the court case;

2. If he is convicted of committing an offence, prior to completion of the sentence or release from serving a sentence;

3. If his departure runs counter to the interests of national security, prior to the end of the validity of the circumstances preventing his departure;

4. If there are other circumstances set forth under Turkmenistan's legislation that prevent his departure.

The departure of a foreign national from Turkmenistan may be postponed until he complies with property requirements that are connected with the vital interests of

citizens of Turkmenistan and other persons and State, cooperative or other public organizations.

Article 28 of this Act sets forth the grounds under which liability is incurred for an offence; for example, foreign nationals who have committed a crime or an administrative or other violation in the territory of Turkmenistan are subject to liability on a general footing with citizens of Turkmenistan and in accordance with its legislation. In accordance with article 31 of the Act, a foreign national may be expelled from Turkmenistan:

1. If his actions run counter to the interests of ensuring national security or protecting public order;

2. If this is necessary in order to protect the health and morality of the population or protect the rights or legal interests of citizens of Turkmenistan and other persons;

3. If he has flagrantly violated the laws on the legal status of foreign nationals in Turkmenistan, or the customs, currency or other laws of Turkmenistan.

A decision to expel a person from Turkmenistan is taken by the internal affairs agencies. A foreign national must leave Turkmenistan within the period indicated in the decision. Persons seeking to avoid leaving in such cases are subject, with approval of the Public Prosecutor, to detention and forcible expulsion. Detention is permitted in such cases for the period required for expulsion.

In accordance with the regulations on the procedure for granting permanent residence permits in Turkmenistan, approved under the decision of the President of Turkmenistan of 28 August 2002, a foreign national or stateless person may be denied a residence permit in Turkmenistan:

(a) If he has committed a crime against humanity;

(b) If he has committed a grave offence or if criminal proceedings have been instituted against him;

(c) If his residence in the territory of Turkmenistan runs counter to Turkmenistan's national security interests or may breach the State order or cause moral harm to the population of the State;

(d) If he is infected with HIV/AIDS, a venereal disease or other illness included in the list drawn up by the Ministry of Health and the Medical Industry of Turkmenistan, or is a drug addict;

(e) If he knowingly provides false information in order to obtain a residence permit in Turkmenistan;

(f) If a restriction was placed earlier on his entry into Turkmenistan, until the expiry of the period of the restriction.

A residence permit in Turkmenistan is deemed invalid and is cancelled, if the person in question:

(a) knowingly provided false information when applying for a residence permit;

(b) has been found guilty under a court sentence of having committed a grave premeditated offence;

(c) causes well-founded fears with regard to a breach of public order or constitutes a threat to the State's national security interests;

(d) is a member of a terrorist, anti-State, extremist or other criminal organization;

(e) has been in the military service or other State service of a foreign State, except in cases when this is provided for under the international treaties of Turkmenistan;

(f) is enrolled in an institution for drug-abuse treatment.

In order to improve the State administration in the area of migration and enhance monitoring of compliance with legislation in force concerning the entry, exit and stay of foreign nationals and stateless persons in Turkmenistan, the President of Turkmenistan issued a decree establishing the State Service for the Registration of Foreign Nationals, which has the responsibility for monitoring the entry, exit and stay of foreign nationals and stateless persons in Turkmenistan.

In order to ensure the further regulation of the entry, exit and stay of foreign nationals in Turkmenistan, register foreign nationals and stateless persons according to their place of residence and enhance the monitoring of their compliance with Turkmenistan's legislation, the President of Turkmenistan issued a decree on improving the procedure governing the entry, exit and stay of foreign nationals in Turkmenistan, and the Commission for Monitoring the Issuance of Permits was also established on 6 February 2003.

Additional personnel were assigned to the Visa and Registration Section within the Passport and Census Department of the Ministry of Foreign Affairs of Turkmenistan at the same time, in order to improve the monitoring of the procedure governing the entry, exit and stay of foreign nationals and stateless persons in the territory of Turkmenistan.

In order to prevent crimes related to terrorism, the Ministry of Foreign Affairs, within the framework of its functions, conducts ongoing operational and preventive work which is also designed to detect persons and their circle of acquaintances who are inclined to engage in terrorist activities. Firmly condemning international terrorism as a terrible evil directed against all mankind and an attempt to undermine the basis of contemporary civilization, Turkmenistan endeavours to strengthen cooperation with the world community in combating international terrorism. Cooperation on the part of State bodies involved in combating terrorism is conducted with the counter-terrorist agencies and services of foreign States on the basis of bilateral (multilateral) agreements, including those of an interdepartmental nature. The conclusion of such agreements is the basis for conducting operational and investigative measures, taking procedural steps and searching for persons who have committed terrorist crimes and so forth. Under the Protocol on Cooperation between the Security Councils of Turkmenistan and the Russian Federation, signed on 3 January 2003, agreement was reached on the possibility of joint actions by the two countries.

Section on the arms embargo

A special section to combat terrorism and organized crimes operates within the Ministry of Internal Affairs of Turkmenistan. One of its tasks is to prevent and suppress terrorist activities as well as individual terrorist acts and to combat terrorism in the interest of ensuring State security.

In accordance with the Ministry of Internal Affairs permit system, preventive checks are systematically carried out of the ownership, use and transport of firearms and explosive, poisonous and radioactive substances.

The permit system (for the ownership, use and transport of weapons), implemented by the internal affairs agencies of Turkmenistan, also covers army threaded-barrel combat weapons and weapons manufactured on special order (including deactivated weapons), training and large calibre sport weapons (7.62 mm calibre and larger), small calibre threaded-barrel hunting weapons (including small calibre and smooth-barrel firearms, ammunition for such weapons, and cold-steel bladed weapons (hunting knives, sabres, dirks, daggers, etc.), belonging to organizations and citizens, except for those in the Ministries of Defence, Security and Internal Affairs and also the State Border Service of Turkmenistan.

A single procedure for obtaining, registering and owning hunting weapons has been introduced in Turkmenistan. Smooth-barrel and threaded-barrel hunting weapons are sold to citizens on the basis of permits issued by the internal affairs agencies. Persons who are members of hunting and fishing associations have the right to acquire such weapons.

A special check is carried out of citizens who wish to acquire smooth-barrel hunting firearms before a permit is issued to them.

Hunting firearms acquired by citizens must be registered within 10 days in the internal affairs agencies in the owners' place of residence along with the acquisition of a permit to own the weapon for three years followed by subsequent re-registration. Ammunition and gunpowder are obtained by citizens in specialized stores that sell hunting firearms in accordance with established norms and only upon presentation of a hunting permit and a permit issued by an internal affairs agency to own such types of weapons.

An armed guard accompanies the centralized transport of firearms and ammunition. The transport of firearms and ammunition in hand luggage is carried out on the basis of a permit issued by the internal affairs agencies. Firearms, except for army weapons, and cartridges for them are cleared for import and export across the State border of Turkmenistan by the customs bodies on the basis of permits issued by the Ministry of Internal Affairs.

In the course of their daily activities, Turkmenistan's law enforcement agencies, in accordance with national legislation and their jurisdiction, conduct measures to prevent the illegal delivery, sale or transfer of weapons and other military equipment.

Turkmenistan's legislation has established customs barriers for the import into and export from its territory of weapons, ammunition, materiel and special spare goods and materials for their production, explosive substances, nuclear materials (including materials in the form of fuel assemblies), sources of ionizing objects,

technology and special equipment which may be used to create weapons and materiel.

Under the Penal Code of Turkmenistan, approved by the Act of 12 June 1997 on the approval and enactment of the Penal Code of Turkmenistan, smuggling, in accordance with article 254, is defined as:

1. The transport in large quantities across the customs border of Turkmenistan of goods or other objects in respect of which special regulations have been established governing transport across the customs border of Turkmenistan, except for the goods and objects indicated in paragraph 3 of this article, which is carried out without the knowledge of or in concealment from customs control or with the fraudulent use of documents or customs identification methods or which is accompanied by a failure to declare goods or a false declaration, shall be punished by a fine of 25 to 50 times the average monthly wage or by corrective work for up to two years or imprisonment for up to three years with or without confiscation of property.

2. The acts provided for under paragraph 3 of this article which are carried out:

(a) Repeatedly;

(b) By a group of persons acting on the basis of prior agreement or by an organized group;

(c) By a public servant using his official position or by a person exempt from customs control;

(d) With the use of force against a person conducting customs control,

Shall be punished by imprisonment for two to five years with or without confiscation of property.

3. Transport across the customs border of Turkmenistan of narcotics; psychotropic, virulent, toxic, poisonous, radioactive or explosive substances; arms; explosive devices; firearms or ammunition; nuclear, chemical, biological and other types of weapons of mass destruction; materials and equipment which may be used to create weapons of mass destruction and in respect of which special regulations have been established governing transport across the customs border of Turkmenistan; strategically important raw materials; valuable cultural objects in respect of which special regulations have been established governing transport across the customs border of Turkmenistan, if these acts are committed without the knowledge of or in concealment from customs control or with the fraudulent use of documents or customs identification methods or are accompanied by a failure to declare goods or a false declaration of goods,

Shall be punished by imprisonment for three to eight years with or without confiscation of property.

4. The acts provided for under paragraph 3 of this article .which are committed:

(a) Repeatedly;

(b) By a group of persons on the basis of prior agreement or by an organized group;

(c) By a public servant using his official position or by a person exempt from customs control;

(d) With the use of force against a person conducting customs control,

Shall be punished with imprisonment for 5 to 10 years with or without confiscation of property.

Note:

The acts provided for in paragraph 3 of this article are deemed to be committed on a large scale if the value of the goods being transported exceeds the amount of 30 times the average monthly wage.

Section XII of the Penal Code establishes criminal liability for offences against public security and health.

Article 287. The illegal acquisition, sale, ownership, transport, sending or bearing of weapons, ammunition, explosive substances or explosive devices

1. The illegal acquisition, sale, ownership, transport, sending or bearing of firearms, ammunition, explosive substances or explosive devices shall be punished by imprisonment for up to five years.

2. The same act committed by a group of persons on the basis of prior agreement or repeatedly shall be punished by imprisonment for two to seven years.

3. The acts provided for under paragraphs 1 and 2 of this article committed by an organized group or a criminal association shall be punished by imprisonment for 5 to 10 years.

4. The illegal sale or bearing of daggers, Finnish knives or other cold-steel weapons, including throwing weapons, as well as the illegal sale of gas pistols, cylinders or other gas weapons shall be punished by a fine in the amount of 25 to 50 times the average monthly wage or by corrective work for up to two years or by imprisonment for up to two years.

Note:

A person who voluntarily surrenders objects indicated in this article shall be exempt from penal liability if the acts that he has committed do not include any other type of offence.

Article 288. The illegal manufacture of weapons

1. The illegal manufacture or repair of firearms or spare parts for them, as well as the illegal manufacture of ammunition, explosive substances or explosive devices shall be punished by imprisonment for up to three years.

2. The same acts, committed by a group of persons on the basis of prior agreement or repeatedly shall be punished by imprisonment for two to five years.

3. The illegal manufacture of gas weapons, daggers, Finnish knives or other cold-steel weapons, including throwing weapons, shall be punished by corrective work for up to two years or imprisonment for up to three years.

Note:

A person who has voluntarily surrendered objects indicated in this article shall be exempt from criminal liability if the acts that he has committed do not include any other type of offence.

Article 290. Improper fulfilment of obligations to protect weapons, ammunition, explosive substances and explosive devices

The improper fulfilment of his obligations by a person who has been entrusted with the protection of firearms, ammunition, explosive substances or explosive devices, if this results in their theft or destruction or other grave consequences,

Shall be punished by corrective work for a period of up to two years or imprisonment for up to two years.

Article 291. Theft or extortion of weapons, ammunition, explosive substances and explosive devices

1. The theft or extortion of firearms, spare parts for them, ammunition, explosive substances or explosive devices shall be punished by imprisonment for three to eight years.

2. The same acts, if they are committed:

(a) By a person to whom weapons, ammunition, explosive substances or explosive devices were entrusted in connection with his official position or under his protection;

(b) Repeatedly;

(c) By a group of persons on the basis of prior agreement;

(d) With the use of force that does not endanger human life or health,

Shall be punished by imprisonment for 5 to 10 years.

3. If the acts provided for under paragraphs 1 and 2 of this article are committed with the use of force that endangers human life or health, by an organized group or a criminal association, they shall be punished by imprisonment for 8 to 15 years.

More detailed information on the measures undertaken by Turkmenistan in combating terrorism is set forth in the national report of Turkmenistan submitted in implementation of Security Council resolution 1390 (2002).